

THE EFFECTIVE DATE OF THIS ORDINANCE IS NOVEMBER 28, 2007

ORDINANCE NO. 07-35-475

RE: Revisions To The Installment Purchase Program (Section 1-13-35 Of The Frederick County Code) To: (1) Permit Installment Purchase Agreements To Be Used For Other Land Preservation Programs; And (2) Require A Pro Rata Repayment Of Interest To Be Included In The Price Paid For Release Of A Child's Lot Under Frederick County Code Section 1-13-35

PREAMBLE

The Finance Division has identified a fiscal issue with the price paid for the release of a lot for a child as provided in Frederick County Code Section 1-13-35(J)(5) the Installment Purchase Program (IPP). Due to the interest payments made to the landowner it has been determined that the landowner appropriately should pay a pro rata share of the interest previously paid to the landowner by the County under the Installment Purchase Agreement as part of the price to be paid for release of a child's lot under Frederick County Code Section 1-13-35. Staff has recommended Section 1-13-35(J)(5) be amended to add language addressing this issue. The Board finds this to be appropriate.

Staff has recommended utilizing the installment purchase mechanism set forth in Frederick County Code Section 1-13-35 to acquire easements under other agricultural preservation programs -- such as the Rural Legacy Program. The Bond Counsel for the County has indicated that an amendment to the Frederick County Code Section 1-13-35 would clarify the County's ability to use installment purchase agreements.

Staff has recommended such an amendment and believes this will expand the available options to landowners and help the County achieve its agricultural preservation goal of 100,000 acres in accordance with the Strategic Plan goals.

A duly advertised public hearing on this ordinance was held on November 27, 2007 at which time the public had an opportunity to comment.

The Board has determined that these amendments are proper and appropriate.

NOW THEREFORE, BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, that Section 1-13-35(J) be amended as follows:

(J) *Additions to existing easements.*

(1) The process for adding land to existing easements shall be the same as for the initial establishment of an easement. The Advisory Board may establish a minimum size criterion for the addition of land contiguous to an existing easement.

(2) The landowner of record at the time of easement sale may, at any time after easement sale, request a tenant home in accordance with conditions established within the Frederick County Zoning Ordinance for tenants actively engaged in the farming operation. This request shall be submitted to the Department for approval, subject to the review and recommendation of the Frederick County Agricultural Advisory Board.

(3) Subject to the succeeding paragraph a landowner who sells an easement through the installment purchase program may request a 2 acre lot exclusion for the exclusive residential use of the owner and each of the children of the owner as long as the original owner continues to own the land. This right shall not convey to subsequent landowners.

(4) The total number of lot exclusions for the owner and children may not exceed 1 dwelling unit per 50 acres with a maximum lot size of 2 acres. A landowner may elect to relinquish the ability to exclude all children's/owner's lots for the right to exclude 1 lot which may be conveyed to persons not an owner or child of the owner. The maximum 2

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CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law.

acre lot shall include all county right-of-way requirements. In addition, any landowner of an easement requesting a lot exclusion shall be required to repay the county for that lot. This repayment shall be equal to the amount paid per acre by the county to the landowner [.] PLUS A PRO RATA PORTION OF INTEREST PREVIOUSLY PAID TO THE LANDOWNER BY THE COUNTY UNDER THE INSTALLMENT AGREEMENT.

AND BE IT FURTHER ENACTED AND ORDAINED that a new subsection (L) be added to the end of Section 1-13-35 of the Frederick County Code to read as follows:

(L) (1) THE COUNTY MAY ENTER INTO INSTALLMENT AGREEMENTS WITH LANDOWNERS TO ACQUIRE DEVELOPMENT RIGHTS UNDER OTHER STATE AND LOCAL LAND PRESERVATION PROGRAMS UPON COMPLIANCE WITH THE CRITERIA AND PROCEDURES OF THOSE PROGRAMS.

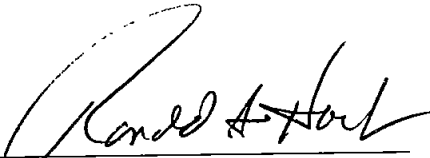
(2) INSTALLMENT AGREEMENTS UNDER OTHER LAND PRESERVATION PROGRAMS ARE NOT REQUIRED TO COMPLY WITH THE CRITERIA AND PROCEDURES OF THE INSTALLMENT PURCHASE PROGRAM.


AND BE IT FURTHER ENACTED AND ORDAINED that this Ordinance shall take effect on the 28th day of November, 2007.

The undersigned hereby certifies that this Ordinance was approved and adopted by the Board of County Commissioners on the 27th day of November, 2007.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF FREDERICK COUNTY, MARYLAND

  
\_\_\_\_\_  
Ronald A. Hart  
County Manager

By:   
\_\_\_\_\_  
Jan H. Gardner  
President MSC 11/28/07

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CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law.